

REMARKS

Claims 1 and 4-54 were pending in this application.

Applicants have amended Claims 1, 4-5, 9, 12-17, 22, 27, 37, 40, 46-49 and 53.

More specifically, the independent claims have been amended to emphasize the use of two sets of ramps that are longitudinally spaced apart.

Consequential amendments to dependent claims have also been made.

Applicants have cancelled Claims 21, 25 and 39 without prejudice or disclaimer of that which is defined thereby.

Accordingly, upon entry hereof Claims 1, 4-20, 22-24, 26-38 and 40-54 remain presented herein for prosecution.

Applicants turn to the substance of the Action.

Section 102 Rejections

Claims 1, 4-16 and 18-54 remain rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Montenieri for the reasons given at pages 2-3, paragraphs 2-3 of the Action.

Applicants traverse the Section 102(b) rejections.

As the Examiner is aware, the invention as defined for instance with reference to Claim 1, as amended, is directed to a dispensing nozzle comprising:

(i) an elongate nozzle body having a longitudinal axis and a base portion and a dispensing end;

(ii) an internal conduit in the nozzle body for delivering product from the base portion to the dispensing end;

(iii) engaging formations on the nozzle for inter-engaging with co-operating engaging formations on a cap, to hold said cap in a position over-fitting the nozzle; and

(iv) a first set of external ramps, the ramps within the first set being spaced apart on the nozzle transversely relative to the longitudinal axis of the nozzle body and

(v) a second set of external ramps are provided longitudinally spaced apart from the first set of external ramps on the nozzle body, the ramps within the second set of ramps being transversely spaced apart on the nozzle relative to the longitudinal axis of the nozzle body and against each of which sets respective co-operating portions on the cap may act by relative rotation of the cap and the nozzle in at least one direction, to provide sufficient relative separation force between the cap and the nozzle body, to separate the engaging formations on the cap and the nozzle from an inter-engaged position, where the first and second external ramps each comprise a ramping surface oblique to the direction of rotation of the cap.

The longitudinally spaced apart ramps on the nozzle/ramp co-operating portions on the cap allow for facile removal of a cap from the nozzle even when they have become fouled, for example when bonded together with adhesive. This arrangement of longitudinal ramp co-operating portions is not disclosed, taught or suggested by Montenieri.

The Examiner has taken the view that two ramps both labeled 50 in Montenieri were spaced longitudinally apart. The ramps in Montenieri should be considered longitudinally spaced apart, at least not within the meaning of the present application. While the ramps may face in opposite directions (as it is clear that each ramp within any given set of ramps in the present application do), the Montenieri ramps are clearly located at the same position along the longitudinal axis of the elongate nozzle. They are diametrically opposed to each other and simply face in opposite directions. Accordingly, Montenieri describes one set of ramps which would be considered by the person skilled in the art to be at the same longitudinal position along the nozzle.

Claim 1, in contrast, specifies that the ramps are at different locations along the nozzle. This feature is important for imparting a breaking force at different points along the nozzle. Montenieri describes a pair of ramps that are spaced apart (transversely) across the nozzle.

Nevertheless, in order to advance prosecution on the merits, Applicants have amended Claim 1 to emphasize that two different sets of ramps are spaced apart. The subject application as filed makes it clear that it is intended and very beneficial to have more than one set of ramps which are at different longitudinal locations along the nozzle. It is clear also that there will be a much greater distribution of a breaking force when first and second sets of external ramps are used. The application clearly shows the relationship between a first set of ramps (see items 9a, 9b in the Figures) and a second set of ramps (see items 10a, 10b/11a, 11b in the Figures).

Montenieri is silent in respect of providing more than one set of ramps, let alone specifying any potential relative positioning. Montenieri instead provides guide ribs 26 which are designed to allow proper placement of the cap over the nozzle and which act as a kind of spacer to create less surface contact between the nozzle and cap 15 (see Montenieri at column 3 lines 23-28). Accordingly, Montenieri teaches using guide ribs to maintain a space between the dispensing end of the nozzle and cap to avoid fouling. It will be appreciated that it is the dispensing end that is most likely to become fouled. The present invention provides a second set of ramps which are located towards the dispensing end of the nozzle. It is clear

that the first set of ramps and second set of ramps co-operate. This means that when a turning action is employed to remove the cap from the nozzle, there is a distribution of breaking force along the longitudinal axis of the nozzle and in particular, closer to the dispensing end than disclaimed by Montenieri.

Net Moneyin informs of the requirements of Section 102 anticipation:

[u]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102. Net Moneyin, Inc. v. Verisign, Inc., 545 F.3d 1359, 1371 (Fed. Cir. 2008).

Thus, failing such precise disclosure as required for an effective anticipatory reference, rejections under Section 102 are improper. Here, in part due to the amendments introduced herein and in part because Montenieri does not possess such disclosure, the Action has not established a proper Section 102 rejection based on Montenieri. Accordingly, Applicants request reconsideration and withdrawal of the Section 102(b) rejections.

Section 103 Rejections

Claim 17 remains rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Montenieri and further in view of Braun, for the reasons given in the Action at page 4, paragraphs 6-7.

Applicants traverse the Section 103 rejections.

Montenieri is discussed and contrasted above.

Montenieri's deficiency is assertedly remedied by Braun, according to the Examiner.

Applicants, however, disagree.

The present invention as defined by Claim 17, as amended, is directed to a nozzle (as discussed at pages 17-19 hereof), where the first set of external ramps are provided on a circumferentially arranged ridge portion which is spaced from, and extends about, a wall portion of the nozzle portion and where the first set of external ramps are arranged so as to be clearly visible to a user in both the disengaged or inter-engaged position.

In contrast, Braun has no bearing on adhesives and containers for holding adhesives. Use of Braun as a secondary reference in an attempt to remedy the acknowledged deficiencies of Montenieri as a primary reference could only have occurred with impermissible hindsight. Braun discloses a wide mouth container with a sinusoidal edge. There is no nozzle in the

arrangement. It is clear that Braun's container is not a dispensing container. The mouth thereof is simply too great in diameter to be of any use as a dispensing container. Furthermore a bead 38 is supplied on the lid. Even if, contrary to the Applicants' position, such container would be contemplated for holding curable materials (a position with which Applicants disagree) it is clear that the container itself presents no objective solution to the issue of bonding of a cap to a nozzle by curable material. The high amount of surface area about the mouth of the container by itself would cause a greater fouling issue, not provide a solution thereto.

Bead 38 also is likely to get fouled and bonded very quickly and Braun does not even consider such a potential problem.

Indeed, the Braun container configuration is not suited to holding curable material as the exposure to ambient conditions through the wide mouth will lead to premature curing of the curable material sought by the Examiner to be contained therein. Furthermore, the sinusoidal edge provided between the lid and the container would also be easily fouled and again cause problems in having the lid removed from the container had it become fouled with a bonding material. Applicants submit that persons of ordinary skill in the art would not seek to find a solution to the issue of fouling of a cap/nozzle arrangement

and the consequent bonding of one to the other by looking to Braun.

Further, it is not clear how Braun could be combined with Montenieri. For example the Examiner has not considered how persons of ordinary skill in the art could combine the rib 28/slot 59 arrangement of Montenieri with a sinusoidal arrangement (see Montenieri Figure 1-3 and the cross-section of Figure 21). If such an arrangement was put together it would be impossible to open a closed lid or close an open one. That is because the rib/slot arrangement of Montenieri requires rotation in a horizontal plane which Braun does not allow. There is an immediate lifting action with Braun that would force the rib, in a vertical direction, against the walls of the slot 59 making it impossible to rotate the cap relative to the container without breaking one or both of the Montenieri or Braun parts of any hypothetically combined arrangement.

Neither Montenieri nor Braun disclose, teach or suggest, or provide motivation to reach, the so-defined invention as so-defined for instance in Claim 17.

Since Claim 17 depends from and thus incorporates all of the recitations of Claim 1 and for the reasons set forth above, this Section 103 rejection should be reconsidered and withdrawn.

To establish a *prima facie* case of obviousness, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007).

Moreover, the cited reference (or references when combined) must teach or suggest all the claim limitations. The reason to make the claimed combination, and a reasonable expectation of success, must be found elsewhere than in Applicants' own disclosure, such as in the cited reference, the nature of the problem to be solved, or in the knowledge/understanding of the person of ordinary skill in the art. MPEP § 2143; In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicants submit, however, that the Section 103 rejection does not meet these requirements, and thus cannot stand and should be withdrawn.

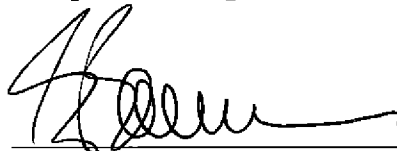
Having addressed the Section 102 rejections and the Section 103 rejections set forth in the Action, Applicants respectfully submit that the application is in condition for allowance. Accordingly, Applicants respectfully request that the next communication issued by the Patent and Trademark Office in this application be a Notice of Allowance.

Application No. 10/597,800
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Amendment After Final Rejection dated September 20, 2010

In any event, this paper represents an earnest attempt at advancing prosecution on the merits, and at the very least sharpening issues for appeal. Applicants, thus respectfully submits that entry thereof is proper.

To the extent that the Examiner does not believe that the present paper places the application in condition for allowance, he is respectfully requested to contact Applicants' undersigned attorney may be reached by telephone at (860) 571-5001, by facsimile at (860) 571-5028 or by e-mail at steve.bauman@us.henkel.com. All correspondence should be directed to the address given below.

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